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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0067]

[Docket 2012-0076; Sequence 10]

**Federal Acquisition Regulation; Submission for OMB Review;
Incentive Contracts**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning incentive contracts. A notice was published in the Federal Register at 77 FR 18819, on March 28, 2012. One respondent submitted comments.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulation (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology;

ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before **[Insert date 30 days after publication in the Federal Register.]**

ADDRESSES: Submit comments identified by **Information Collection 9000-0067, Incentive Contracts**, by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000-0067, Incentive Contracts". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0067, Incentive Contracts" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417. ATTN: Hada Flowers/IC 9000-0067, Incentive

Contracts.

Instructions: Please submit comments only and cite Information Collection 9000-0067, Incentive Contracts, in all correspondence related to this collection. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, Office of Acquisition Policy, GSA (202) 208-4949 or via email michaelo.jackson@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

In accordance with FAR 16.4, incentive contracts are normally used when a firm fixed-price contract is not appropriate and the required supplies or services can be acquired at lower costs, and sometimes with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor's performance.

The information required periodically from the contractor, such as cost of work already performed, estimated costs of further performance necessary to complete all work, total contract price for supplies or services accepted by the Government for which final prices have been established, and estimated costs allocable to supplies or services accepted by the Government and for which final prices have not been established, is needed to negotiate the final prices of incentive-related

items and services. Contractors are required to submit the information in accordance with several incentive fee FAR clauses: FAR 52.216-16, Incentive Price Revision - Firm Target; FAR 52.216-17, Incentive Price Revision - Successive Targets; and FAR 52.216-10, Incentive Fee.

The contracting officer evaluates the information received to determine the contractor's performance in meeting the incentive target and the appropriate price revision, if any, for the items or services.

B. Discussion and Analysis

One respondent submitted public comments on the extension of the previously approved information collection. The analysis of the public comments is summarized as follows:

Comment: The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information. The respondent opposes granting the extension of the information collection requirement.

Response: In accordance with the Paperwork Required Act (PRA), agencies can request an OMB approval of an existing information collection. The PRA requires that agencies use the Federal Register notice and comment process, to extend the OMB's approval, at least every three years. This extension, to a

previously approved information collection, pertains to several incentive fee FAR clauses: FAR 52.216-16, Incentive Price Revision - Firm Target; FAR 52.216-17, Incentive Price Revision - Successive Targets; and FAR 52.216-10, Incentive Fee. Incentive contracts are used when other types of fixed-price or cost reimbursement contracts are inappropriate because the assumption of risk on one of the contracting parties is unfavorable. Thus, incentive contracts provide an alternative that the contracting parties can agree impose some risk but not as much as the other types of fixed-price or cost reimbursement contracts. The information collected, which should be information collected in the normal course of doing business, allows a contractor to justify and the contracting officer to evaluate the contractor's performance in meeting the incentive target and the appropriate price revision, if any, for the items or services received. Not granting this extension would consequently eliminate FAR clauses that provide a benefit to the public and the agency collecting the information.

Comment: The respondent commented that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. For this reason, the respondent provided that the agency should reassess the estimated total burden hours and revise the estimate upwards to be more accurate, as was done in FAR Case 2007-006. The same

respondent also provided that the burden of compliance with the information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

Response: Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made considering particularly the hours that would be required for review within the company, prior to release to the Government.

The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation.

Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business. Careful consideration went into assessing the burden for this collection, and although adjustments were made, the estimated annual burden remains unchanged. However, at any point, members of the public may submit comments for further consideration, and are encouraged to provide data to support their request for an adjustment.

C. Annual Reporting Burden

The estimated annual burden remains the same from the notice published at 77 FR 18819 on March 28, 2012. Adjustments were made to the estimated number of respondents, and the estimated annual responses using fiscal year 2011 data from the Federal Procurement Data System as a baseline. In addition, the

estimated hours per response increased, but the total estimated burden hours remain unchanged.

Respondents: 1,000.

Responses Per Respondent: 2.

Annual Responses: 2,000.

Hours Per Response: 1.5.

Total Burden Hours: 3,000.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services

Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417, telephone (202) 501-4755. Please cite OMB Control No. 9000-0067, Incentive Contracts, in all correspondence.

Dated: October 5, 2012

William Clark,
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